

01  
02  
03  
04  
05  
06 UNITED STATES DISTRICT COURT  
07 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

08 CURTIS S. THOMPSON, ) CASE NO. C05-2064-JLR-MAT  
09 Plaintiff, )  
10 v. ) ORDER RE: PLAINTIFF'S MOTION  
11 SCOTT O'TOOLE, et al., ) TO COMPEL AND DEFENDANTS'  
12 Defendants. ) JOINDER IN MOTION TO  
CONSOLIDATE  
\_\_\_\_\_ )

13  
14 This is a civil rights action brought under 42 U.S.C. § 1983. This matter comes before  
15 the Court at the present time on plaintiff's motion to compel discovery and on defendants'  
16 request to join in a motion to consolidate filed in cause number C08-1065-JCC-JPD. This  
17 Court, having reviewed the record, does hereby ORDER as follows:

18 (1) Plaintiff's motion to compel discovery (Dkt. 130) is STRICKEN. Plaintiff, by  
19 way of the instant motion, seeks to compel the production of all prior complaints and  
20 investigations against the named defendants or the King County Jail.

21 Plaintiff's "motion" is, in effect, a discovery request. Discovery requests must be  
22 made in accordance with the rules set forth in the Federal Rules of Civil Procedure. There is

01 no provision in those rules for seeking discovery, in the first instance, by way of a motion to  
02 compel. In fact, motions to compel are reserved for instances where a dispute arises in relation  
03 to a proper discovery request and the parties have already made a good faith effort to resolve the  
04 dispute. *See* Local Rule CR 37. Plaintiff makes no showing that he has either made a proper  
05 discovery request or that he has made any effort to resolve this issue with counsel for  
06 defendants. Plaintiff's motion is therefore not properly before the Court.

07 (2) Defendants' request to join in the motion to consolidate filed in case number  
08 C08-1065-JCC-JPD (Dkt. 132) is STRICKEN. Defendants seek to join in a motion to  
09 consolidate which was filed by the defendants in a separate civil rights action initiated by  
10 plaintiff and currently pending in this court. By Order dated July 27, 2009, the Honorable  
11 James P. Donohue, United States Magistrate Judge, denied the motion to consolidate which was  
12 filed in C08-1065-JCC-JPD. Accordingly, defendants' pending request to join in that motion  
13 is moot.

14 (3) The Clerk shall send copies of this Order to plaintiff, to counsel for defendants,  
15 and to the Honorable James L. Robart.

16 DATED this 26th day of August, 2009.

17 

18 Mary Alice Theiler  
19 United States Magistrate Judge  
20  
21  
22